

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DAUD ABDULLAH HOLIDAY,

Plaintiff,

CIVIL ACTION NO. 1:15cv22  
(Judge Keeley)

v.

DHO DISCIPLINARY HEARING BOARD OF BOP,  
T. LANE,  
T. O'BRIEN,  
SMU DHO (Hearing Officer),  
USP LEWISBURG DHO BOARD OFFICERS,  
WARDENS,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 20]

On February 9, 2015, the pro se petitioner, Daud Abdullah Holiday ("Holiday"), filed a Bivens claim against the defendants, which the Court referred to United States Magistrate Judge Robert W. Trumble for initial screening and a Report and Recommendation ("R&R") in accordance with LR PL P 2.<sup>1</sup>

On October 28, 2015, Magistrate Judge Trumble issued a R&R, in which he recommended that the Court dismiss with prejudice Holiday's claims against Warden O'Brien and the SMU Hearing Officer for failure to state a claim upon which relief may be granted (dkt.

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<sup>1</sup>It should be noted that Holiday's complaint is essentially the same complaint he filed on April 28, 2014, in 1:14cv76. The Court had also assigned that case to Magistrate Trumble for initial screening and a Report and Recommendation. Magistrate Trumble recommended that action be dismissed without prejudice for failure to exhaust administrative remedies, to which Holiday made no formal cognizable objections. The Court subsequently adopted the R&R in its entirety.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

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no. 20 at 15). The R&R further recommended that the Court dismiss without prejudice Holiday's claims against the remaining defendants for lack of personal jurisdiction or for failure to exhaust administrative remedies. Id. In addition, the R&R recommended that, insofar as Holiday's claims relate to the conditions of his confinement at USP Lewisburg, the Court dismiss those claims without prejudice as to his right to bring an action in United States District Court for the Middle District of Pennsylvania. Id. Finally, the R&R recommended that Holiday's "Motion with Grievance Grivance (sic) Attachment and Question of Personality" (dkt. no. 18), be denied as lacking a substantive request for a court order.

The R&R specifically warned Holiday and the defendants that failure to object to the recommendations would result in the waiver of any appellate rights they might otherwise have on those issues. Id. at 15-16. The parties have not filed any objections.<sup>2</sup> Consequently, after careful review, and finding no clear error, the Court

- **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 20);

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<sup>2</sup> The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

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- **DISMISSES WITH PREJUDICE** the claims against Warden O'Brien and the SMU Hearing Officer;
- **DISMISSES WITHOUT PREJUDICE** the claims against the remaining defendants;
- **DISMISSES** the case **WITHOUT PREJUDICE** to Holiday's right to bring an action in United States District Court for the Middle District of Pennsylvania regarding any claims he may have concerning the conditions of his confinement at USP Lewisburg;
- **DENIES** the "Motion with Grievance Grivance (sic) Attachment and Question of Personality" (dkt. no. 18); and
- **ORDERS** that this case be stricken from the Court's active docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: December 14, 2015.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE